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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,142	01/29/2002	Ichiro Masaki	400853	3411

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EXAMINER

GEREZGIHER, YEMANE M

ART UNIT PAPER NUMBER

2144

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/763,142

Applicant(s)

MASAKI ET AL.

Examiner

Yemane M. Gerezgiher

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-15, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment received on 03/30/2005 has been entered. Claims 1-20 remain pending in this application. Claims 16-18 are withdrawn from consideration.

Allowable Subject Matter

2. Claim 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 13, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ma** (U.S. Patent Number 6,493,317) in view of **Elliott** (U.S. Patent Number 6,335,927) and further in view of **Hluchyj** et al. (U.S. Patent Number 5,402,478) hereinafter referred to as **Hluchyj**.

As per claim 1, 15 and 19, **Ma** disclosed integrated network services (“coupling a first network to a second network to form at least a part of the integrated network;”) having therein nodes with different service classes of routing data according to priorities where the priorities include low-priority and high priority associated with each node in the integrated network for dynamically distributing link resources based on their priorities making sure that best-effort or low-priority request of nodes associated to the second class do not congest or penalize the routing priority of the requests associated with the guaranteed high priority nodes associated with the first class of the integrated network. See ABSTRACT, Figure 3, Column 3, Lines 16-62, Column 5, Lines 1-22, Column 9, Lines 4-34 and Column 8, Lines 30-59. **Ma further** disclosed, “...implementing a technique for routing traffic associated with a selected class of service...based on a selected class of service, a virtual residual bandwidth value for each link within at least a portion of the network; computer code for utilizing the virtual residual bandwidth values to determine an optimal path for routing traffic associated with the selected class of service...” (See Column 4, Lines 16-24) and “...apparatus for routing traffic in an integrated services network which supports a plurality of different service classes. The apparatus includes means for selecting a particular service class of traffic for routing analysis...” (See Column 4, Lines 45-49). **Ma** also disclosed reducing a bandwidth (claim 13) of a request (See Column 4, Lines 55-64 and Column 17, Lines 30-40).

Ma substantially disclosed the invention as claimed. However, Ma was silent about assigning a higher routing priority to nodes specifically in a specific network. However, as evidenced by the teachings of Elliott favoring requests originating from one specific network by giving higher priority over requests originating from other network was known in the art at the time of the invention. See Column 18, Lines 46-65. Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of Elliott related to assigning higher routing priorities to data traffic associated to one network over another network and have modified the teachings of Ma related providing routing according to level of priority assigned to nodes generally in an integrated network in order to provide prioritized routing to the real-time traffic of one network over the rest of the best-effort data traffic over the Internet. See Column 18, Lines 58-65.

The already combined teachings of Elliott and Ma substantially disclosed the invention as claimed. However, **as correctly argued by the inventive entity**, the already combined teachings of Elliott and Ma failed to teach, **“preempting existing routing paths associated with the second network to establish routing paths requested by nodes associated with the first network” as recited in claim 1 and similarly as recited in claims 15 and 19.**

However, an artisan now working with the combined teachings of Elliott and Ma would have been motivated to look for teachings that may have allowed

Art Unit: 2144

alternative path routing/prioritized routing and/or establishing routing paths using multiple techniques in the art of routing algorithms. In these arts **Hluchyj** taught a communication in an integrated network system (col. 7 Lines 47-48) wherein the communication system disclosed preempting existing paths allocated to the low-priority communication links to allow calls with higher priority communication network links to make use of the preempted alternative path in communication with the destination (col. 6 Lines 33-43). The preemption process taking place when the priority constraints of the preempting connection are higher than a priority of the connection to be preempted (col. 7 Lines 5-17 and Lines 22-38).

In regards to claims 2-7, **Hluchyj** further disclosed, assigning priority based upon plurality of factors (col. 8 Lines 1-10 and col. 5 Lines 11-20) and where the plurality of factors are selected from groups consisting of value assigned to a node (col. 7 Lines 22-29) and a value corresponding to elapsed (delay or latency, col. 3 Lines 60-64 and col. 8 Lines 1-10) and further acknowledged that the priority factor associated with the condition of the communication devices in the communication network (col. 6 Lines 33-38 and col. 2 Lines 51-53).

Thus, it is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings of **Hluchyj** related to preempting communication paths associated with low priority communication links to allow communication links with

Art Unit: 2144

higher priority to communicate and have modified the already combined teachings of **Elliott and Ma** to include the functional limitation of "preempting existing calls/links" in order to accommodate new calls of greater importance in the integrated communication network. Col. 6 Lines 33-43.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ma** (U.S. Patent Number 6,493,317) in view of **Elliott** (U.S. Patent Number 6,335,927) in view of **Hluchyj** et al. (U.S. Patent Number 5,402,478) and further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made.

The previously combined teachings of **Ma**, **Elliott** and **Hluchyj** substantially disclosed the invention as claimed, but failed to mention translating protocol of data traffic to another protocol of data traffic. Examiner takes Official Notice (see MPEP § 2144.03) that "the use of a gateway ("which is a hardware or software set-up that translates between two dissimilar protocols") and connect two dissimilar protocol networks by translating one data flow of a protocol to another data flow of a protocol" in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or

Art Unit: 2144

argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a gateway or other similar method to translate one type of protocol to another and have modified the already combined teachings of **Ma**, **Elliott** and **Hluchyj** so that different networks with dissimilar protocol could communicate.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ma** (U.S. Patent Number 6,493,317) in view of **Elliott** (U.S. Patent Number 6,335,927) in view of **Hluchyj** et al. (U.S. Patent Number 5,402,478) and further in view of **Festl** et al. (U.S. Patent Number 5,699,358) hereinafter referred to as **Festl**.

The combined teachings of **Ma**, **Elliott** and **Hluchyj** substantially disclosed the invention as claimed. However failed to mention detailed routing

Art Unit: 2144

mechanism of selecting a neighboring node and establishing a routing path from the neighboring node.

An ordinary person of skill in the art of routing and path selection mechanism and principally in a graph theory would have been motivated to look for alternative path selection specially when a predetermined path between nodes are to fail. In these arts **Festl** disclosed selecting a neighboring node and establishing a routing path from the neighboring node. See ABSTRACT and Column 1, Line 5 through Column 2, Line 50.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to take the teachings of **Festl** related to traffic routing in a communication network and have modified the combined teachings of **Ma**, **Elliott** and **Hluchyj** “so that data relating to achievability both of direct paths connecting this switching node to its neighboring nodes and of direct paths connecting the neighboring destination switching node to its respective neighboring nodes are made available in the originating switching node” See Column 1, Lines 54-62.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ma** (U.S. Patent Number 6,493,317) in view of **Elliott** (U.S. Patent Number 6,335,927) in view of **Hluchyj** et al. (U.S. Patent Number 5,402,478) and further in view of **Kogane** et al. (U.S. Patent Number 6,323,897) hereinafter referred to as **Kogane**.

Even though the combined teachings of the **Ma**, **Elliott** and **Hluchyj** disclosed the invention as claimed, **Ma**, **Elliott** and **Hluchyj** have failed to disclose a surveillance network having therein plurality of cameras. However, as evidenced by the teaching of **Kogane** a surveillance network including plurality of cameras and clients including a traffic center was known in the art at the time of the invention. See Figure 2, Column 1, Line 23 through Column 2, Line 67. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the teachings **Kogane** related to surveillance network and have modified the already combined teachings of **Ma**, **Elliott** and **Hluchyj** in order provide improved security.

8. Claim 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ma** (U.S. Patent Number 6,493,317) in view of **Elliott** (U.S. Patent Number 6,335,927) in view of **Hluchyj** et al. (U.S. Patent Number 5,402,478) and further in view of **Brendel** et al. (U.S. Patent Number 5,774,660) hereinafter referred to as **Brendel**.

The combined teachings of **Ma**, **Elliott** and **Hluchyj** failed to teach migration of a request from a node/server to another node/server. However, as evidenced by the teachings of **Brendel**, migrating a request from one node to another node was known in the art at the time the invention was made. See Figure 8, Figure 11A, Column 10, Lines 38-53 and Column 9, Lines 30-40. Thus, it would have been obvious to one of ordinary skill in the art at the time

Art Unit: 2144

of the invention to take the teachings of **Brendel** related to migrating a request and have modified the combined teachings of **Ma**, **Elliott** and **Hluchyj** in order to facilitate the load balancing process in the clustered computer system.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 15 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record (FORM PTO-892) and not relied upon is considered pertinent to Applicant's disclosure.

- a. Nielson (US 3917910 A) entitled: "Circuitry for providing call override in a PBX system in accordance with a supplied class of service"
- b. Bauer et al. (US 6310946 B1) entitled: "Method for interrupting a telephone call after receiving a busy signal"
- c. Sasaki (US 4839892 A) entitled: "Concentrator system capable of completing emergency calls under congested traffic"

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yemane M. Gerezgiher whose

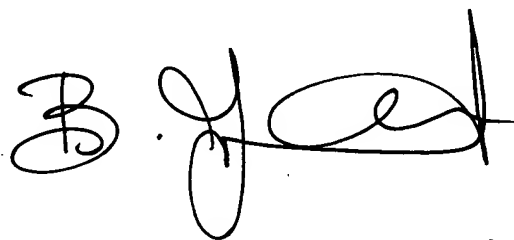
Art Unit: 2144

telephone number is (571) 272-3927. The examiner can normally be reached on 9:00 AM - 6:00 PM Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached at (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yemane M. Gerezgifier
Patent Examiner, Computer Networks

A handwritten signature in black ink, appearing to read 'B. Jaroenchonwanit', with a large, stylized initial 'B' and a long horizontal stroke extending to the right.

BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER